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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF DELAWARE
4 C.A. No. 02-1294-JJF

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5 MBIA INSURANCE CORPORATION AND
6 WELLS FARGO BANK, N.A. (f/k/a
7 WELLS FARGO BANK MINNESOTA N.A.)
8 AS TRUSTEE OF SFC GRANTOR TRUST
9 SERIES 2000-1, SFC GRANTOR TRUST,
10 SERIES 2000-2, SFC GRANTOR TRUST,
11 SERIES 2000-3, SFC GRANTOR TRUST,
12 SERIES 2000-4, SFC GRANTOR TRUST,
13 SERIES 2001-1, SFC GRANTOR TRUST,
14 SERIES 2001-2, SFC OWNER TRUST,
15 SERIES 2000-I, AND SFC GRANTOR
16 TRUST, SERIES 2001-3,

17 Plaintiffs/
18 Counterclaim Defendants,

19 - vs -

20 ROYAL INDEMNITY COMPANY,
21 Defendant/
22 Counterclaim Plaintiff.

23 -----x
24 ROYAL INDEMNITY COMPANY,
25 Third-Party Plaintiff,

26 - vs -

27 ANDREW N. YAO, STUDENT LOAN SERVICING
28 LLC, STUDENT LOAN ACCEPTANCE II LLC,
29 STUDENT LOAN ACCEPTANCE III LLC, STUDENT
30 LOAN ACCEPTANCE V LLC, STUDENT LOAN
31 ACCEPTANCE VIII LLC, STUDENT LOAN
32 ACCEPTANCE IX LLC, SFC FINANCIAL LLC I,
33 SFC FINANCIAL LLC II, SFC FINANCIAL LLC
34 VI, SFC FINANCIAL LLC VII,
35 Third Party Defendants.

36 -----x
37 August 24, 2007
38 9:39 a.m.

39 TRACK I WITNESS: MARTIN LIEBERMAN
40

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>ROYAL INDEMNITY COMPANY, Counter-Claimant, - vs - MBIA BANK and WELLS FARGO BANK MINNESOTA N.A., Counter-Defendants.</p> <p>C.A. No. 04-1551-JJF</p> <p>CHARLES A. STANZIALE, JR., CHAPTER 7 TRUSTEE OF STUDENT LOAN FINANCE CORPORATION, Plaintiff, - vs - PEPPER HAMILTON LLP, et al., Defendants.</p> <p>C.A. No. 05-72-JJF</p> <p>CHARLES A. STANZIALE, JR., CHAPTER 7 TRUSTEE OF STUDENT LOAN FINANCE CORPORATION, Plaintiff, - vs - McGLADREY & PULLEN LLP AND MICHAEL AQUINO, Defendants.</p> <p>C.A. No. 05-165-JJF</p> <p>ROYAL INDEMNITY COMPANY, Plaintiff, - vs - PEPPER HAMILTON LLP, et al., Defendants.</p>	<p>2</p> <p>1 2 APPEARANCES: 3 4 SONNENSCHEIN NATH & ROSENTHAL, ESQ. 5 1221 Avenue of the Americas New York, New York 10020 6 Attorneys for Royal Indemnity Company 6 BY: DANIEL PANCOTTI, ESQ.</p> <p>7 8 McELROY, DEUTSCH, MULVANEY 9 & CARPENTER, LLP Three Gateway Center 10 100 Mulberry Street Newark, New Jersey 07102-4079 11 Attorneys for the Bankruptcy Trustee for SFC 12 BY: STEPHEN PAYERLE, ESQ.</p> <p>13 14 SCHNADER HARRISON SEGAL & LEWIS LLP 15 1600 Market Street Philadelphia, Pennsylvania 19103-7286 16 Attorneys for Pepper Hamilton LLP BY: LINDA ALLE-MURPHY, ESQ.</p> <p>17 18 19 ECKERT SEAMANS 20 Two Liberty Place 50 South 16th Street 21 22nd Floor Philadelphia, Pennsylvania 19102 22 Attorneys for W. Roderick Gagne, Pamela Gagne, Robert Bast and the 23 Family Trusts BY: NEIL G. EPSTEIN, ESQ</p> <p>24 25</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>August 24, 2007 9:39 a.m.</p> <p>Deposition of MARTIN LIEBERMAN, held at the offices of McElroy Deutsch Mulvaney & Carpenter LLP, Three Gateway Center, Newark, New Jersey, before Todd DeSimone, a Registered Professional Reporter and Notary Public of the State of New Jersey.</p>	<p>3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 2 MARTIN LIEBERMAN, 3 called as a witness, having been first 4 duly sworn, was examined and testified 5 as follows:</p> <p>6 EXAMINATION BY MR. EPSTEIN: 09:39:05AM 7 Q. Good morning, Mr. Lieberman. 09:39:27AM 8 My name is Neil Epstein. I'm from Eckert 09:39:30AM 9 Seamans, a Philadelphia law firm. I 09:39:33AM 10 represent in this action Robert Bast, 09:39:41AM 11 Pamela Gagne, certain family trusts, and 09:39:44AM 12 Rod Gagne as trustee of those trusts. 09:39:50AM 13 I'm going to be asking you 09:39:57AM 14 questions about your report. I want to 09:39:59AM 15 tell you that what I've done is put your 09:40:00AM 16 report and the underlying documents that 09:40:05AM 17 were sent to me by counsel as being those 09:40:09AM 18 documents listed in your report that you 09:40:13AM 19 relied on in a book. Unfortunately, FedEx 09:40:15AM 20 has not delivered the two boxes, but they 09:40:19AM 21 should be here relatively soon. 09:40:24AM 22 But in the meanwhile, what I 09:40:25AM 23 would like you to do, if you would, is 09:40:27AM 24 answer my questions off of just the report 09:40:32AM 25 without the exhibits. Okay? 09:40:34AM</p>

2 (Pages 2 to 5)

<p>1 LIEBERMAN</p> <p>2 A. That's fine. 09:40:36AM</p> <p>3 Q. I want to ask you, I read your 09:40:44AM</p> <p>4 report and I read your background, I want 09:40:46AM</p> <p>5 to ask you whether you have had experience 09:40:48AM</p> <p>6 in advising a buyer of a business as to 09:40:51AM</p> <p>7 the value of the company that the buyer 09:40:54AM</p> <p>8 was intending or proposing to purchase. 09:40:58AM</p> <p>9 A. I have had experience 09:41:01AM</p> <p>10 consulting with buyers on purchasing 09:41:04AM</p> <p>11 businesses as to their value. 09:41:06AM</p> <p>12 Q. Has that occurred frequently, 09:41:08AM</p> <p>13 infrequently, during your career? 09:41:10AM</p> <p>14 A. I think it has occurred 09:41:13AM</p> <p>15 frequently. 09:41:15AM</p> <p>16 Q. Recently? 09:41:15AM</p> <p>17 A. Yes. 09:41:17AM</p> <p>18 Q. Within the last six months? 09:41:18AM</p> <p>19 A. Yes, within the last six 09:41:20AM</p> <p>20 months. 09:41:22AM</p> <p>21 Q. And was it a case of your going 09:41:22AM</p> <p>22 to the company or looking at the company 09:41:24AM</p> <p>23 either through books, records, or 09:41:29AM</p> <p>24 whatever, and advising your client as to 09:41:31AM</p> <p>25 whether some proposed purchase price was 09:41:35AM</p>	<p>1 LIEBERMAN</p> <p>2 a starting point for any analysis of what 09:42:46AM</p> <p>3 the proper purchase price would be, 09:42:49AM</p> <p>4 correct? 09:42:52AM</p> <p>5 MR. PAYERLE: Objection to 09:42:52AM</p> <p>6 form. 09:42:53AM</p> <p>7 A. The past financial statements 09:42:55AM</p> <p>8 form a basis for commencement of the 09:42:57AM</p> <p>9 investigation of any company. 09:42:59AM</p> <p>10 Q. You were retained to give an 09:43:11AM</p> <p>11 opinion with respect to the fair market 09:43:16AM</p> <p>12 value of Premier Education Group, Inc. as 09:43:20AM</p> <p>13 of March 31, 2002 and some date that I 09:43:26AM</p> <p>14 can't recall in 2006; is that correct? 09:43:33AM</p> <p>15 A. I was engaged to prepare a 09:43:35AM</p> <p>16 valuation as of March 31st, 2002 and 09:43:38AM</p> <p>17 December 31st, 2006. 09:43:40AM</p> <p>18 Q. And you did that? 09:43:45AM</p> <p>19 A. I did that. 09:43:47AM</p> <p>20 Q. And your analysis is in your 09:43:47AM</p> <p>21 report, correct? 09:43:51AM</p> <p>22 A. My analysis is in my report and 09:43:52AM</p> <p>23 in the work papers that I maintain in my 09:43:55AM</p> <p>24 files associated with preparation of this 09:43:59AM</p> <p>25 report. 09:44:03AM</p>
<p>1 LIEBERMAN</p> <p>2 reasonable or not reasonable? 09:41:37AM</p> <p>3 A. Normally when I do a consulting 09:41:41AM</p> <p>4 assignment, I will do a site visit to the 09:41:44AM</p> <p>5 company that's under investigation. I 09:41:47AM</p> <p>6 will review the books and records to the 09:41:50AM</p> <p>7 extent they are provided to me about the 09:41:52AM</p> <p>8 company, as well as get a sense towards 09:41:56AM</p> <p>9 what the future of the company is, what 09:41:59AM</p> <p>10 direction is the company going, what are 09:42:01AM</p> <p>11 the strengths, weaknesses, opportunities 09:42:05AM</p> <p>12 and threats facing the company, as well as 09:42:07AM</p> <p>13 some sort of projection as to future cash 09:42:11AM</p> <p>14 flows related to the company, as stated by 09:42:15AM</p> <p>15 management. 09:42:19AM</p> <p>16 Q. Have you ever had a situation 09:42:19AM</p> <p>17 where the person that you were 09:42:21AM</p> <p>18 representing or your client in purchasing 09:42:25AM</p> <p>19 a business did not want to see the past 09:42:27AM</p> <p>20 financial statements of the business? 09:42:29AM</p> <p>21 A. I don't think I've seen an 09:42:36AM</p> <p>22 instance where someone would buy a company 09:42:38AM</p> <p>23 where they would not want to see the past 09:42:40AM</p> <p>24 financial statements, no. 09:42:42AM</p> <p>25 Q. It would be critical, at least 09:42:45AM</p>	<p>1 LIEBERMAN</p> <p>2 Q. Have you looked at your work 09:44:03AM</p> <p>3 file in preparation for this deposition? 09:44:06AM</p> <p>4 A. I looked at my work file, yes. 09:44:09AM</p> <p>5 Q. Do you have a copy of your work 09:44:14AM</p> <p>6 file with you? 09:44:15AM</p> <p>7 A. My work file is in computer 09:44:19AM</p> <p>8 form. It is files within a computer 09:44:21AM</p> <p>9 setting. I didn't take the files with me. 09:44:25AM</p> <p>10 Q. Let me ask you, what's in the 09:44:29AM</p> <p>11 computer other than the report -- are 09:44:33AM</p> <p>12 there drafts of the report in your 09:44:37AM</p> <p>13 computer? 09:44:40AM</p> <p>14 A. I don't believe so. 09:44:41AM</p> <p>15 Q. So in preparing the report, you 09:44:44AM</p> <p>16 would do a draft and then you would work 09:44:46AM</p> <p>17 over the draft on the same document; is 09:44:48AM</p> <p>18 that your procedure? 09:44:51AM</p> <p>19 A. Normally we do actually save 09:44:55AM</p> <p>20 the drafts. I just can't recall in this 09:44:58AM</p> <p>21 case if I have the drafts in that same 09:45:01AM</p> <p>22 computer file or someplace else. But 09:45:03AM</p> <p>23 chances are there are drafts laying around 09:45:05AM</p> <p>24 and I could produce those drafts. 09:45:11AM</p> <p>25 MR. EPSTEIN: I would request 09:45:14AM</p>

10

1 LIEBERMAN
 2 the production of those drafts, if you 09:45:15AM
 3 would. 09:45:18AM
 4 Q. What else would be in the work 09:45:24AM
 5 file, if they are in the work file, I'm 09:45:26AM
 6 not suggesting they are on the computer, 09:45:28AM
 7 but I'm including the drafts within a work 09:45:30AM
 8 file, but the work file on the computer, 09:45:31AM
 9 what else would be in there other than 09:45:33AM
 10 drafts, perhaps the final report, the 09:45:36AM
 11 documents that were sent to me which are 09:45:42AM
 12 the ones listed in your report; would 09:45:44AM
 13 there be anything else? 09:45:47AM
 14 A. Well, the work file would have 09:45:52AM
 15 documents and worksheets that led up to 09:45:58AM
 16 the final worksheet in our report. 09:46:02AM
 17 In other words, our report, for 09:46:05AM
 18 example, the Schedule 7 in my report on 09:46:07AM
 19 Appendix D has certain calculations 09:46:15AM
 20 underlying the results that are shown on 09:46:17AM
 21 Schedule 7. Those documents would be in 09:46:19AM
 22 the work file. 09:46:22AM
 23 Q. Anything else you can think of? 09:46:27AM
 24 A. All of the documents that were 09:46:29AM
 25 provided to me by this office here. 09:46:30AM

12

1 LIEBERMAN
 2 listed them here? 09:48:34AM
 3 A. Only if I used them in my 09:48:38AM
 4 report. 09:48:42AM
 5 Q. What about if you used them to 09:48:42AM
 6 review to get some idea as to how the 09:48:45AM
 7 company had done prior to 2001, would you 09:48:47AM
 8 have put them down in this list? 09:48:52AM
 9 A. Had I used the reports prior to 09:48:55AM
 10 2001, I would have put it on the list. 09:48:58AM
 11 Q. By "used," if you would have 09:49:00AM
 12 reviewed them to form some idea as to how 09:49:02AM
 13 the company had performed prior to 2001; 09:49:07AM
 14 is that what you mean? 09:49:10AM
 15 A. If I had used the financial 09:49:12AM
 16 statements, I would have listed them in my 09:49:14AM
 17 report. 09:49:17AM
 18 Q. Did you think it was unusual, 09:49:17AM
 19 Mr. Lieberman, that you were asked to do 09:49:20AM
 20 an appraisal of a company as of March 2002 09:49:22AM
 21 and you were not given financial 09:49:28AM
 22 statements other than the 2001 financial 09:49:31AM
 23 statement? 09:49:35AM
 24 MR. PAYERLE: Objection, form. 09:49:35AM
 25 Q. I mean prior to the 2002 09:49:36AM

11

1 LIEBERMAN
 2 Q. Those are the documents listed 09:46:37AM
 3 in your report, correct? 09:46:38AM
 4 A. That's correct. Well, there 09:46:40AM
 5 are other documents that were provided to 09:46:41AM
 6 me that I didn't necessarily use for my 09:46:42AM
 7 report. 09:46:46AM
 8 Q. What are those documents? 09:46:46AM
 9 A. I don't know. 09:46:48AM
 10 Q. You don't know? 09:46:48AM
 11 A. No. 09:46:49AM
 12 Q. Did counsel provide you with 09:46:50AM
 13 the financial statements of Premier prior 09:47:00AM
 14 to 2001? 09:47:02AM
 15 A. I don't know. 09:47:53AM
 16 Q. When you say you don't know, on 09:47:54AM
 17 the list of documents that you say you 09:47:56AM
 18 reviewed, going to Appendix C, I think, 09:48:01AM
 19 "Sources of Information," you have audited 09:48:08AM
 20 financial statements of Premier for the 09:48:12AM
 21 years 2001 to 2005; is that correct? 09:48:15AM
 22 A. Yes, that is correct. 09:48:23AM
 23 Q. Can I assume that if you had 09:48:27AM
 24 been given the previous financial 09:48:30AM
 25 statements prior to 2001, you would have 09:48:33AM

13

1 LIEBERMAN
 2 period. 09:49:39AM
 3 A. I don't know what you mean by 09:49:42AM
 4 "unusual." 09:49:44AM
 5 Q. Did you find it unusual? I 09:49:44AM
 6 mean, that word I think has a definition 09:49:48AM
 7 that we all could agree to. Out of the 09:49:52AM
 8 ordinary. 09:49:55AM
 9 MR. PAYERLE: Same objection. 09:49:56AM
 10 Go ahead. 09:49:57AM
 11 A. I was presented with the 09:49:57AM
 12 information I was presented with and 09:50:01AM
 13 that's what I used in my report. 09:50:03AM
 14 Q. Who presented it to you? 09:50:04AM
 15 A. This office, Lois Goodman. 09:50:06AM
 16 Q. Have you had any contact with 09:50:11AM
 17 any lawyers in this office other than Lois 09:50:13AM
 18 Goodman? 09:50:18AM
 19 A. Yes, Michael Waters and Steve 09:50:18AM
 20 Payerle. 09:50:31AM
 21 Q. So you did have some 09:50:41AM
 22 communications with Lois Goodman and also 09:50:43AM
 23 Mr. Waters, correct, and Mr. Payerle? 09:50:45AM
 24 A. I received information from 09:50:49AM
 25 Lois Goodman and Mr. Waters. I did not 09:50:52AM

4 (Pages 10 to 13)

46

1 LIEBERMAN
 2 contracts work? 10:33:57AM
 3 MR. PAYERLE: Same objection. 10:33:59AM
 4 A. I don't follow you. 10:33:59AM
 5 Q. Let me make it very clear. A 10:34:04AM
 6 student comes in and signs a contract for 10:34:07AM
 7 \$5,000. You report 80 percent of that as 10:34:12AM
 8 being revenues. Is that correct? 10:34:17AM
 9 A. I don't know, but all right. 10:34:20AM
 10 Q. You didn't read the '96 through 10:34:25AM
 11 2000 financials, did you? 10:34:28AM
 12 A. Yes, I did. 10:34:30AM
 13 Q. Oh, you did read them? 10:34:31AM
 14 A. Yes, I did. 10:34:32AM
 15 Q. So they were given to you by 10:34:34AM
 16 counsel -- 10:34:36AM
 17 A. I'm sorry, I didn't get that 10:34:37AM
 18 far back. 2001 was the beginning. I 10:34:40AM
 19 misheard you. 10:34:45AM
 20 Q. I'm talking '96 through 2000. 10:34:45AM
 21 A. I'm sorry, I misheard you. 10:34:48AM
 22 Q. Now, in the 2001 financial, are 10:34:50AM
 23 you telling me it didn't say the breakdown 10:34:54AM
 24 of what was reported as revenue from the 10:34:56AM
 25 contract that I just gave you as a 10:35:00AM

48

1 LIEBERMAN
 2 Q. Well, review or read note 4, 10:37:28AM
 3 whatever you refer -- 10:37:31AM
 4 A. "Read" is the word. 10:37:32AM
 5 Q. We are not in accounting 10:37:33AM
 6 school. Read note 4, if you would. 10:37:36AM
 7 (Witness perusing document.) 10:37:41AM
 8 Q. Note 4 of the 2001 seems to be 10:38:12AM
 9 the same recognition, 80/20? 10:38:14AM
 10 A. It appears that way. 10:38:18AM
 11 Q. Do you have any question that 10:38:19AM
 12 was the policy that is stated in the 10:38:20AM
 13 financial statements as being the policy 10:38:23AM
 14 of the company with respect to revenue 10:38:25AM
 15 recognition? 10:38:28AM
 16 A. The policy appears to be that 10:38:28AM
 17 when a student enrolls, 80 percent of the 10:38:31AM
 18 tuition is taken into revenue. 10:38:36AM
 19 Q. So you knew that when you read 10:38:39AM
 20 this, correct? "This" being the 2001 10:38:42AM
 21 financial statement which is marked as 10:38:46AM
 22 Exhibit 354. 10:38:48AM
 23 A. I knew that after I read it. 10:38:50AM
 24 Q. You can keep going with your 10:39:10AM
 25 comments on Mr. Waddington, his report. 10:39:13AM

47

1 LIEBERMAN
 2 hypothetical? 10:35:01AM
 3 MR. PAYERLE: Objection, form. 10:35:04AM
 4 A. I would have to refer back to 10:35:05AM
 5 it. But I recall there is a paragraph 10:35:07AM
 6 which describes the revenue recognition 10:35:10AM
 7 policy. 10:35:13AM
 8 Q. And wasn't it 80/20? 10:35:13AM
 9 A. I would have to look at it. 10:35:15AM
 10 Q. Why don't you take a look at 10:35:16AM
 11 the year 2000, which is in your book under 10:35:19AM
 12 tab 1A. It is note 4. Would you read to 10:35:40AM
 13 yourself note 4. 10:36:12AM
 14 (Witness perusing document.) 10:36:32AM
 15 Q. For that year, it is stated 10:36:51AM
 16 that 80 percent is recognized as revenue 10:36:56AM
 17 at the time of the contract; is it not? 10:37:02AM
 18 A. It appears to be so. 10:37:04AM
 19 Q. Now go to the next financial 10:37:07AM
 20 statement, which is 2001, which I believe 10:37:09AM
 21 you testified you did review? 10:37:14AM
 22 A. Yes, I did. Though "review" is 10:37:17AM
 23 a poor choice of words. Because in 10:37:22AM
 24 accountant parlance, that means I gave a 10:37:25AM
 25 review opinion, which I did not. 10:37:27AM

49

1 LIEBERMAN
 2 MR. PAYERLE: You referred to 10:39:51AM
 3 Exhibit 354? 10:39:52AM
 4 MR. EPSTEIN: Yes, that was the 10:39:54AM
 5 2000. The 2001 financial statement I 10:39:56AM
 6 asked Mr. Lieberman to look at, that is 10:39:58AM
 7 Exhibit 326, Track II. 10:40:06AM
 8 (Witness perusing document.) 10:42:26AM
 9 A. So I object to the last 10:42:27AM
 10 sentence on the last paragraph "These 10:42:29AM
 11 analyses performed by Mr. Lieberman were 10:42:32AM
 12 an integral component of his selection of 10:42:34AM
 13 a discount rate." 10:42:38AM
 14 My objection is -- I object to 10:42:40AM
 15 that statement. 10:42:44AM
 16 Q. You what? 10:42:45AM
 17 A. I object to that sentence. 10:42:45AM
 18 Q. Your objection is you object; 10:42:47AM
 19 is that what you just said? 10:42:50AM
 20 A. I think I did. 10:42:51AM
 21 My objection is I don't agree 10:42:54AM
 22 with that statement. 10:42:56AM
 23 Q. But you did use the income in 10:42:58AM
 24 determining an appropriate discount rate, 10:43:02AM
 25 didn't you? 10:43:04AM

<p style="text-align: right;">62</p> <p>1 LIEBERMAN</p> <p>2 A. Well, it depends on -- no, I 10:56:52AM</p> <p>3 would put a demand note right after cash. 10:56:55AM</p> <p>4 Q. Okay, let's move on. 10:56:58AM</p> <p>5 (Witness perusing document.) 10:57:40AM</p> <p>6 A. On page 15, in the middle of 10:57:40AM</p> <p>7 the page, "There is no apparent 10:57:44AM</p> <p>8 consideration by Mr. Lieberman of the 10:57:46AM</p> <p>9 impact these recently acquired schools had 10:57:49AM</p> <p>10 in determining what a reasonable 10:57:52AM</p> <p>11 projection of cash flow may have been in 10:57:54AM</p> <p>12 March 2002." 10:57:56AM</p> <p>13 I disagree with that statement. 10:57:58AM</p> <p>14 Q. Why? 10:58:01AM</p> <p>15 A. Because there was consideration 10:58:03AM</p> <p>16 of the impact of what the cash flow may 10:58:04AM</p> <p>17 have been in March of 2002. 10:58:13AM</p> <p>18 Q. That's not what it says, is it? 10:58:17AM</p> <p>19 It is determining what a reasonable 10:58:20AM</p> <p>20 projection of cash flow may have been. 10:58:22AM</p> <p>21 Isn't that the exact wording that 10:58:25AM</p> <p>22 Mr. Waddington used? 10:58:31AM</p> <p>23 A. Mr. Waddington says what a 10:58:33AM</p> <p>24 reasonable projection of cash flow may 10:58:35AM</p> <p>25 have been in March 2002. I'm saying I did 10:58:37AM</p>	<p style="text-align: right;">64</p> <p>1 LIEBERMAN</p> <p>2 statement. Go on. 11:00:05AM</p> <p>3 (Witness perusing document.) 11:00:26AM</p> <p>4 A. The last paragraph as well, for 11:00:26AM</p> <p>5 the very same reasons. "Mr. Lieberman's 11:00:29AM</p> <p>6 discount rate used in calculating the 11:00:32AM</p> <p>7 present value of the anticipated cash flow 11:00:35AM</p> <p>8 does not appear to consider the impact on 11:00:37AM</p> <p>9 operations or related risks which may have 11:00:40AM</p> <p>10 been considered with the acquisition of 11:00:43AM</p> <p>11 six new schools." 11:00:45AM</p> <p>12 I did take that into account in 11:00:46AM</p> <p>13 the compilation, the buildup, of my 11:00:49AM</p> <p>14 discount rate. 11:00:53AM</p> <p>15 Q. By using the actual figures 11:00:54AM</p> <p>16 that occurred over the next five years, 11:00:55AM</p> <p>17 correct? 11:00:58AM</p> <p>18 A. By using the actual figures 11:00:58AM</p> <p>19 with the view that those amounts were 11:01:02AM</p> <p>20 predicted in March 2002. 11:01:07AM</p> <p>21 Q. With the assumption that they 11:01:09AM</p> <p>22 were predicted in March of 2002, because 11:01:11AM</p> <p>23 no one made that assumption, did they? 11:01:13AM</p> <p>24 MR. PAYERLE: Objection to 11:01:16AM</p> <p>25 form. 11:01:18AM</p>
<p style="text-align: right;">63</p> <p>1 LIEBERMAN</p> <p>2 address that. 10:58:43AM</p> <p>3 Q. By looking at the actuals for 10:58:46AM</p> <p>4 that year, correct? 10:58:48AM</p> <p>5 A. Well, I looked at the actuals 10:58:52AM</p> <p>6 not only for that year, but for subsequent 10:58:54AM</p> <p>7 years as well, right through 2005, on the 10:58:57AM</p> <p>8 theory that subsequent events, if they are 10:59:04AM</p> <p>9 unanticipated, for example, the school 10:59:12AM</p> <p>10 burns down, yeah, you can't use that, look 10:59:14AM</p> <p>11 back and say "Okay, I knew that was going 10:59:17AM</p> <p>12 to happen in March 2002." 10:59:19AM</p> <p>13 But in a case where business is 10:59:21AM</p> <p>14 going on as usual and as anticipated and 10:59:25AM</p> <p>15 as management planned, then you can look 10:59:28AM</p> <p>16 back at subsequent events as a means of 10:59:33AM</p> <p>17 determining value at a prior date. 10:59:36AM</p> <p>18 Q. We are going to go into that in 10:59:38AM</p> <p>19 so much detail, you will probably be sick 10:59:41AM</p> <p>20 of me and sick of my questions. 10:59:43AM</p> <p>21 A. I don't think so. That's not 10:59:45AM</p> <p>22 possible. 10:59:47AM</p> <p>23 Q. I think it is close. We will 10:59:47AM</p> <p>24 explore that in detail later, but I 11:00:00AM</p> <p>25 understand you disagree with his 11:00:03AM</p>	<p style="text-align: right;">65</p> <p>1 LIEBERMAN</p> <p>2 A. "Assumption" isn't the right 11:01:18AM</p> <p>3 word. With the prediction as reflected in 11:01:22AM</p> <p>4 certain documents presented to me. 11:01:25AM</p> <p>5 Q. Did you go back and, by the 11:01:29AM</p> <p>6 way, look at the history of the six 11:01:31AM</p> <p>7 schools that were purchased in terms of 11:01:34AM</p> <p>8 their ability to produce either cash flow 11:01:37AM</p> <p>9 or income? 11:01:39AM</p> <p>10 A. That was not presented to me. 11:01:41AM</p> <p>11 I did not go back and look. 11:01:43AM</p> <p>12 Q. Did you ask for that 11:01:44AM</p> <p>13 information? 11:01:46AM</p> <p>14 A. I was given a set of 11:01:47AM</p> <p>15 information and told there was no more 11:01:49AM</p> <p>16 information. 11:01:53AM</p> <p>17 Q. You've got to answer my 11:01:54AM</p> <p>18 questions, not someone else's questions. 11:01:55AM</p> <p>19 Did you ask for that 11:01:57AM</p> <p>20 information? You don't know whether it 11:02:01AM</p> <p>21 exists or not, all right, so don't give an 11:02:03AM</p> <p>22 answer on something you don't know. 11:02:05AM</p> <p>23 I'm asking you, did you ask for 11:02:07AM</p> <p>24 that information? "What's the financial 11:02:10AM</p> <p>25 history of these six schools they 11:02:12AM</p>

1 LIEBERMAN
 2 do that in terms of negotiating a fair and 11:14:58AM
 3 reasonable price; is that your testimony? 11:15:01AM
 4 MR. PAYERLE: Objection to 11:15:03AM
 5 form. This has been asked and answered. 11:15:03AM
 6 MR. EPSTEIN: I wish it had 11:15:08AM
 7 been. 11:15:09AM
 8 MR. PAYERLE: We each have our 11:15:10AM
 9 position on that. Go ahead. 11:15:11AM
 10 Q. You have nothing to add to your 11:15:13AM
 11 answer? 11:15:15AM
 12 A. I have nothing to add to my 11:15:15AM
 13 answer. 11:15:16AM
 14 Q. Okay, continue on. 11:15:17AM
 15 (Witness perusing document.) 11:15:28AM
 16 A. On page 16, under "Conclusion," 11:15:28AM
 17 the first paragraph I disagree with. 11:15:31AM
 18 "In our opinion, to a 11:15:41AM
 19 reasonable degree of accounting certainty, 11:15:45AM
 20 the discounted cash flow calculations 11:15:48AM
 21 prepared by Mr. Lieberman and used in his 11:15:50AM
 22 methodology of valuing PEG are inaccurate 11:15:54AM
 23 and unreliable." I completely disagree 11:15:56AM
 24 with that. 11:16:00AM
 25 "His methodology is based upon 11:16:01AM

1 LIEBERMAN
 2 question, yes. 11:16:59AM
 3 MR. EPSTEIN: Okay, thank you. 11:17:01AM
 4 A. I've forgot the question. 11:17:01AM
 5 (The record was read.) 11:17:25AM
 6 A. I don't think Premier existed 11:17:25AM
 7 in 1966. 11:17:27AM
 8 Q. We changed that to 1996. 11:17:29AM
 9 A. But I believe that that 11:17:34AM
 10 information could have some relevance in 11:17:37AM
 11 forming an opinion of the value of Premier 11:17:39AM
 12 on March of 2002. 11:17:44AM
 13 Q. So that when Mr. Waddington 11:17:46AM
 14 says "fails to consider other relevant 11:17:49AM
 15 information," by your own testimony he is 11:17:52AM
 16 correct, isn't he? Because you didn't 11:17:56AM
 17 consider the financial information from 11:17:59AM
 18 1996 through 2000 for Premier. 11:18:02AM
 19 A. I had not had that available. 11:18:09AM
 20 But had I had that available, it would 11:18:11AM
 21 have an influence on my conclusions, but 11:18:13AM
 22 not as significant an influence as the 11:18:18AM
 23 information that I did have, which told me 11:18:20AM
 24 what the prospects of the company were 11:18:24AM
 25 going forward and its growth trend and the 11:18:27AM

1 LIEBERMAN
 2 the selective use of information, fails to 11:16:02AM
 3 consider other relevant information, and 11:16:05AM
 4 contains inaccurate adjustments to arrive 11:16:07AM
 5 at cash flow of PEG." I disagree with 11:16:09AM
 6 that statement as well. 11:16:12AM
 7 Q. So you think that the financial 11:16:14AM
 8 information for Premier for 1966 through 11:16:18AM
 9 the year 2000 are totally irrelevant to a 11:16:22AM
 10 valuation of Premier in March of '02; is 11:16:32AM
 11 that what you are saying? 11:16:36AM
 12 MR. PAYERLE: I assume you 11:16:37AM
 13 didn't mean 1966. 11:16:38AM
 14 MR. EPSTEIN: Probably not. 11:16:39AM
 15 1996. 11:16:41AM
 16 MR. PAYERLE: Objection to 11:16:42AM
 17 form. 11:16:47AM
 18 MR. EPSTEIN: Even with that 11:16:47AM
 19 correction, you object to the form, not my 11:16:48AM
 20 1966? 11:16:51AM
 21 MR. PAYERLE: I was taking the 11:16:53AM
 22 liberty to correct you on the 1966. 11:16:54AM
 23 MR. EPSTEIN: But that's not 11:16:57AM
 24 your objection? 11:16:58AM
 25 MR. PAYERLE: As I recall the 11:16:58AM

1 LIEBERMAN
 2 markets it was serving and the national 11:18:30AM
 3 economy and the industry economy, and all 11:18:33AM
 4 the much more important factors that we 11:18:36AM
 5 can use to look forward and say the value 11:18:39AM
 6 of this school is what it is going to 11:18:42AM
 7 produce, not what it did produce. 11:18:44AM
 8 So the more relevant data was 11:18:49AM
 9 looked at. The less relevant data, we did 11:18:52AM
 10 not have access to. 11:18:56AM
 11 Q. When you say you didn't have 11:18:59AM
 12 access to it, you weren't given it, 11:19:01AM
 13 correct? 11:19:03AM
 14 A. I was not given that data, nor 11:19:03AM
 15 did I have access to it. 11:19:06AM
 16 Q. Did you ask for that data? You 11:19:10AM
 17 don't recall? 11:19:12AM
 18 A. I don't recall. 11:19:13AM
 19 Q. Go on. 11:19:16AM
 20 (Witness perusing document.) 11:19:29AM
 21 A. The next paragraph, 11:19:29AM
 22 "Mr. Lieberman fails to recognize the 11:19:31AM
 23 effect that the change in revenue 11:19:32AM
 24 recognition policy had on the revenue and 11:19:34AM
 25 net income of PEG prior to December 31st, 11:19:36AM

<p>82</p> <p>1 LIEBERMAN 2 2004, and as a result inaccurately uses 11:19:40AM 3 unreasonable revenue and net income 11:19:47AM 4 amounts in performing his analysis of the 11:19:49AM 5 financial condition and in calculating the 11:19:52AM 6 discounted cash flow." 11:19:55AM 7 I object to that statement as 11:19:56AM 8 being wrong, in that my cash flow analysis 11:20:00AM 9 did not depend upon the revenue 11:20:06AM 10 recognition policy. My cash flow analysis 11:20:10AM 11 depended on when cash was received and in 11:20:12AM 12 what amount. 11:20:17AM 13 Q. As you've explained before, 11:20:18AM 14 correct? 11:20:22AM 15 A. As I explained before, the cash 11:20:22AM 16 flow is the driver of my analysis, not the 11:20:24AM 17 revenue recognition policy. 11:20:28AM 18 Q. Go on. 11:20:30AM 19 (Witness perusing document.) 11:20:37AM 20 A. "Mr. Lieberman's entire 11:20:37AM 21 financial analysis fails to consider 11:20:39AM 22 appropriate financial results of PEG prior 11:20:42AM 23 to 2005, including over \$20 million of 11:20:44AM 24 adjustments." 11:20:51AM 25 I object to that as well. It 11:20:52AM</p>	<p>84</p> <p>1 LIEBERMAN 2 presented a report which has a reasonable 11:21:54AM 3 conclusion of value, correct? 11:21:58AM 4 A. Correct. 11:21:59AM 5 Q. Of Premier Education Group LLP? 11:22:02AM 6 A. No. It is just LP. 11:22:08AM 7 Q. LP, okay. 11:22:11AM 8 I think we are through with 11:22:14AM 9 Mr. Waddington. Now we can go on to 11:22:15AM 10 Mr. Penny. I assume that you -- I better 11:22:20AM 11 not assume. 11:22:24AM 12 Have you formed opinions with 11:22:25AM 13 respect to Mr. Penny's report? 11:22:26AM 14 A. I have. 11:22:29AM 15 Q. Do you disagree with some of 11:22:29AM 16 the statements or all of the statements 11:22:33AM 17 made by Mr. Penny in his report? 11:22:34AM 18 A. I disagree with the methodology 11:22:39AM 19 Mr. Penny used in his report, and I 11:22:42AM 20 disagree with his comments on my report, 11:22:46AM 21 and I disagree with his insertion of 11:22:49AM 22 the -- using my report and my Schedule 7, 11:22:55AM 23 he carried my analysis from 2001 through 11:23:01AM 24 2005 using actual financial statements as 11:23:04AM 25 projected and inserted 2006 actual, which 11:23:08AM</p>
<p>83</p> <p>1 LIEBERMAN 2 did consider those results. 11:20:53AM 3 Q. Okay, go on. 11:20:59AM 4 (Witness perusing document.) 11:21:02AM 5 A. "Additionally, the adjustment 11:21:02AM 6 to add back to net income unauthorized 11:21:04AM 7 payments to Mr. Yao of \$913,217 for nine 11:21:06AM 8 months in 2002 and \$575,085 in 2003 lacks 11:21:08AM 9 any supportable basis and overstates his 11:21:12AM 10 calculation of cash flow." 11:21:15AM 11 I do not agree with that 11:21:17AM 12 statement. 11:21:19AM 13 "Based upon our analysis, the 11:21:21AM 14 documents identified in Mr. Lieberman's 11:21:24AM 15 calculations of projected cash flow and 11:21:26AM 16 resulting discounted cash flows for PEG 11:21:29AM 17 are inaccurate, unreliable, unreasonable," 11:21:32AM 18 and I do not agree and object to that 11:21:35AM 19 statement. 11:21:38AM 20 "As a result, his schedule of 11:21:39AM 21 discounted cash flows is a series of 11:21:41AM 22 mathematical calculations that cannot lead 11:21:44AM 23 to a supportable or reasonable conclusion 11:21:45AM 24 of value." I disagree with that. 11:21:47AM 25 Q. So you believe that you have 11:21:51AM</p>	<p>85</p> <p>1 LIEBERMAN 2 came out after I had done my report. 11:23:12AM 3 He came to a conclusion that 11:23:15AM 4 had I used the actual 2006 financial 11:23:17AM 5 statements, my value would have been, I 11:23:21AM 6 believe it was some \$11 million as opposed 11:23:24AM 7 to the \$30 million which I had given an 11:23:27AM 8 opinion on. 11:23:33AM 9 Now, in his insertion of the 11:23:33AM 10 actual 2006 financial cash flows, he 11:23:37AM 11 surprisingly put in every number as stated 11:23:50AM 12 on the financial statements except for the 11:23:51AM 13 changes in working capital. For that 11:23:54AM 14 number, he adopted my number, my 11:23:58AM 15 guesstimate used in my report, versus 11:24:02AM 16 every other number was right off the 2006 11:24:07AM 17 statements, but he chose to selectively 11:24:10AM 18 take that one number for changes in 11:24:12AM 19 working capital and use the number that 11:24:14AM 20 had appeared in my report as an estimate 11:24:17AM 21 over the actual changes in working 11:24:19AM 22 capital. 11:24:23AM 23 So were one to substitute my 11:24:23AM 24 number with the actual changes and be 11:24:25AM 25 consistent with the rest of his column, 11:24:29AM</p>

1 LIEBERMAN
 2 MR. PAYERLE: Did we mark this 12:05:45PM
 3 binder, by the way? 12:05:47PM
 4 MR. EPSTEIN: No. Let's mark 12:05:49PM
 5 the binder. 12:05:50PM
 6 (Exhibit 2061-I marked for 12:06:04PM
 7 identification.) 12:06:12PM
 8 Q. Just as a refresher to you, 12:06:13PM
 9 what I attempted to do in this binder is 12:06:15PM
 10 put together your report, all documents 12:06:17PM
 11 that I received from counsel which are 12:06:22PM
 12 listed in your report as documents that 12:06:28PM
 13 you either reviewed or relied on, plus I 12:06:30PM
 14 put in the financials of Premier for 1997 12:06:33PM
 15 through the year 2000. The '97 financial 12:06:41PM
 16 statement has the '96 figures also. And 12:06:47PM
 17 also the 2006 financial statements. 12:06:51PM
 18 That should be what's in front 12:06:57PM
 19 of you. 12:06:59PM
 20 MR. PAYERLE: Are you done with 12:07:02PM
 21 the identification of the exhibit? 12:07:02PM
 22 MR. EPSTEIN: Yes. 12:07:04PM
 23 MR. PAYERLE: If I can state 12:07:05PM
 24 quickly, we object to the marking of the 12:07:06PM
 25 exhibit to the extent that it does include 12:07:08PM

1 LIEBERMAN
 2 materials that Mr. Lieberman did not 12:07:11PM
 3 produce or rely on, and to the extent that 12:07:13PM
 4 by marking it together as one exhibit it 12:07:16PM
 5 might be suggested or misunderstood 12:07:19PM
 6 otherwise. 12:07:22PM
 7 We also do understand, Counsel, 12:07:22PM
 8 your description of what is in it. It is 12:07:24PM
 9 obviously a lengthy exhibit. We have not 12:07:27PM
 10 gone through to verify that everything is 12:07:29PM
 11 as exactly stated. To the extent that 12:07:34PM
 12 something comes up during the examination 12:07:37PM
 13 of the exhibit, we can note it then. 12:07:39PM
 14 MR. EPSTEIN: There is one page 12:07:42PM
 15 I left out. That was an index which is 12:07:43PM
 16 preceding the insert 1A which gives a 12:07:48PM
 17 short description of each of the tabs. I 12:07:53PM
 18 think that's the only thing I left out. 12:07:57PM
 19 MR. PAYERLE: With reference to 12:08:01PM
 20 that exhibit, I do note that it states 12:08:03PM
 21 that tab 1A has the audited financial 12:08:06PM
 22 statements of Premier Education Group LP 12:08:08PM
 23 for the years 2001 to 2005. As you 12:08:11PM
 24 indicated, it in fact goes back to 1996, I 12:08:15PM
 25 believe. 12:08:18PM

1 LIEBERMAN
 2 MR. EPSTEIN: That is an error, 12:08:19PM
 3 and I appreciate you correcting me. Thank 12:08:20PM
 4 you. 12:08:25PM
 5 BY MR. EPSTEIN: 12:08:27PM
 6 Q. Going to the letter that you 12:08:29PM
 7 signed which went to Mr. Waters, you 12:08:31PM
 8 referred to, in the third paragraph, IRS 12:08:35PM
 9 Revenue Ruling 59-60. Can you tell me 12:08:39PM
 10 what that ruling is? 12:08:44PM
 11 A. That's a ruling that was 12:08:48PM
 12 prepared in 1959, and that has all the 12:08:52PM
 13 factors that come into play in preparing a 12:08:58PM
 14 business valuation of closely-held stock. 12:09:05PM
 15 It talks about the nature of the business, 12:09:11PM
 16 the earnings capacity, the book value, 12:09:14PM
 17 intangible value, you know, value of 12:09:21PM
 18 intangible assets, dividend paying 12:09:24PM
 19 capacity, sales of the company in its own 12:09:27PM
 20 stock, and market comparables. 12:09:33PM
 21 Q. Can you describe to me, if you 12:09:37PM
 22 would, the importance of this revenue 12:09:38PM
 23 ruling for people that practice your 12:09:44PM
 24 profession, which is appraisers? 12:09:46PM
 25 A. It is considered the seminal 12:09:50PM

1 LIEBERMAN
 2 work on valuation methodology and is 12:09:51PM
 3 referred to in all later documents that 12:09:59PM
 4 purport to lay out the practices and 12:10:02PM
 5 procedures in preparing a business 12:10:07PM
 6 valuation. It is sort of like the Magna 12:10:10PM
 7 Carta of business valuation. 12:10:13PM
 8 Q. That is generally accepted by 12:10:20PM
 9 all appraisers; is that correct? 12:10:21PM
 10 A. That is generally accepted, 12:10:22PM
 11 yes. 12:10:24PM
 12 Q. By all appraisers who you would 12:10:24PM
 13 give some credibility? 12:10:26PM
 14 A. All accredited appraisers, yes. 12:10:28PM
 15 Q. I want to go to your 12:10:37PM
 16 definition, if you would, on page 2, with 12:10:40PM
 17 the number 2 on it, the definition of 12:10:46PM
 18 nonmarketable minority interest. 12:10:50PM
 19 In the present case, you do not 12:11:00PM
 20 use that level of value, correct, in your 12:11:03PM
 21 valuation? 12:11:10PM
 22 A. This report does not reflect a 12:11:10PM
 23 value for nonmarketable minority interest. 12:11:12PM
 24 Q. What do you mean when you say 12:11:21PM
 25 "lacking both control and market 12:11:28PM

1 LIEBERMAN
 2 break? 12:55:36PM
 3 MR. PAYERLE: Whenever it is 12:55:38PM
 4 convenient for you. 12:55:40PM
 5 Q. Revenue Ruling 59-60 also 12:55:52PM
 6 strongly suggests, those are my words, but 12:55:57PM
 7 interpreting the document, that you get 12:56:00PM
 8 financial statements for a company and you 12:56:03PM
 9 go back some two to five years; does it 12:56:05PM
 10 not? 12:56:10PM
 11 MR. PAYERLE: Objection to 12:56:10PM
 12 form. 12:56:12PM
 13 Q. In making a valuation, in 12:56:12PM
 14 determining a fair value for the company, 12:56:17PM
 15 doesn't it say that? 12:56:20PM
 16 A. It doesn't refer to fair value, 12:56:21PM
 17 it refers to fair market value, which is 12:56:24PM
 18 very different than fair value. 12:56:27PM
 19 It does have as one of the 12:56:34PM
 20 components of preparing a valuation the 12:56:38PM
 21 historical financial statements, which 12:56:41PM
 22 would be the B in NEBIDISM. The B in 12:56:53PM
 23 NEBIDISM stands for book value. Book 12:57:01PM
 24 value would contemplate let's look at the 12:57:04PM
 25 financial statements. 12:57:06PM

1 LIEBERMAN
 2 But since then there has been much 12:58:27PM
 3 advancements in procedures and sources of 12:58:31PM
 4 information to be used for valuing a 12:58:37PM
 5 business. 12:58:39PM
 6 I think the current thinking is 12:58:40PM
 7 the most important aspect of valuing a 12:58:42PM
 8 business is its prospective future cash 12:58:46PM
 9 flow. 12:58:51PM
 10 Q. Not its history? 12:58:51PM
 11 A. Less important is its history. 12:58:53PM
 12 Q. Wouldn't that depend upon the 12:58:55PM
 13 company and depend upon the industry? 12:58:58PM
 14 A. Absolutely. A company that is 12:59:00PM
 15 not growing, yes, the history is it, the 12:59:01PM
 16 history is pretty much going to tell us 12:59:06PM
 17 what the future is going to be because 12:59:08PM
 18 there is no anticipated changes. 12:59:10PM
 19 For a company that is growing, 12:59:11PM
 20 the history is of significantly less 12:59:13PM
 21 importance. 12:59:17PM
 22 Q. Most house builders over the 12:59:19PM
 23 last seven or eight years were growing 12:59:22PM
 24 pretty well, wouldn't you agree, during 12:59:26PM
 25 that period? 12:59:29PM

143

1 LIEBERMAN
 2 Q. Are you saying that the Revenue 12:57:09PM
 3 Ruling 59-60 says to go back to the 12:57:23PM
 4 financial statements for previous years 12:57:27PM
 5 just to see what the book value of the 12:57:29PM
 6 company was during those years? Is that 12:57:31PM
 7 your testimony? 12:57:34PM
 8 A. The book value reflects the 12:57:36PM
 9 operations of the company. Yes. Maybe I 12:57:39PM
 10 don't understand. 12:57:45PM
 11 Q. So the only thing you would go 12:57:46PM
 12 back and look at is the book value? 12:57:48PM
 13 A. Well, you would look at the 12:57:51PM
 14 operations of the company in prior years 12:57:53PM
 15 clearly. 12:57:55PM
 16 Q. Profit, loss, revenues? 12:57:56PM
 17 A. Yes. But I think the essence 12:57:57PM
 18 of it is that that's not the sole thing 12:57:59PM
 19 that we are going to rely on to value a 12:58:07PM
 20 company. That is one factor. But it 12:58:10PM
 21 recognizes that more important is looking 12:58:15PM
 22 forward. 12:58:17PM
 23 I have to add that we've come a 12:58:18PM
 24 long way since Revenue Ruling 59-60. 12:58:21PM
 25 Revenue Ruling 59-60 started the process. 12:58:24PM

145

1 LIEBERMAN
 2 A. From my understanding, they had 12:59:29PM
 3 been growing very nicely. 12:59:31PM
 4 Q. They are not growing so well 12:59:34PM
 5 this year and the year before this; isn't 12:59:35PM
 6 that true? 12:59:38PM
 7 A. I would suggest that they are 12:59:39PM
 8 shrinking as opposed to growing in terms 12:59:40PM
 9 of sales. 12:59:43PM
 10 Q. Are you suggesting that someone 12:59:47PM
 11 two and a half, three years ago would be 12:59:48PM
 12 able to project ahead as to what the 12:59:51PM
 13 housing market was going to be in 2007? 12:59:54PM
 14 A. There are projections that were 01:00:01PM
 15 prepared back then that predicted a 01:00:03PM
 16 housing collapse around this time. If 01:00:06PM
 17 someone were to study the industry 01:00:10PM
 18 literature, they would perhaps come to 01:00:12PM
 19 that conclusion, perhaps not. 01:00:15PM
 20 Q. Have you looked at that 01:00:17PM
 21 literature? 01:00:18PM
 22 A. In fact, I actually have, 01:00:19PM
 23 because I'm working on a valuation for a 01:00:21PM
 24 builder of homes. 01:00:25PM
 25 Q. Tell me what report you are 01:00:25PM

<p style="text-align: right;">150</p> <p>1 LIEBERMAN 2 Premier, the fact that their profits and 01:49:36PM 3 pretax income as a percentage of sales was 01:49:41PM 4 substantially higher than these benchmark 01:49:47PM 5 companies that you are referring to? 01:49:50PM 6 A. I'm not sure what you mean by 01:49:54PM 7 "red flag." 01:49:55PM 8 Q. Would a prospective purchaser 01:49:58PM 9 want to investigate as to why that was so? 01:50:02PM 10 A. A prospective purchaser would 01:50:04PM 11 certainly want to investigate why that was 01:50:06PM 12 so. 01:50:08PM 13 Q. Would a prospective purchaser 01:50:09PM 14 also want to know the basis for the 80/20 01:50:12PM 15 percent reporting of revenue? 01:50:17PM 16 A. Do you mean the revenue 01:50:22PM 17 recognition policy that we discussed 01:50:24PM 18 earlier? 01:50:26PM 19 Q. Yes. 01:50:26PM 20 A. They would want to -- I'm not 01:50:29PM 21 sure of the question. "The basis"? I 01:50:31PM 22 don't know what you mean. 01:50:34PM 23 Q. You are not sure of the 01:50:35PM 24 question? 01:50:37PM 25 A. No. 01:50:37PM</p>	<p style="text-align: right;">152</p> <p>1 LIEBERMAN 2 and the fact that they were recognizing 01:51:29PM 3 revenues on an 80/20 percent split? 01:51:33PM 4 A. A buyer, hypothetical buyer, 01:51:38PM 5 would look at all data that a company is 01:51:43PM 6 presenting and would look at all 01:51:47PM 7 relationships between balance sheet and 01:51:49PM 8 income statement items and derive his own 01:51:53PM 9 conclusions as to what will the cash flows 01:51:57PM 10 from the company be. 01:51:58PM 11 Q. So is your answer yes to my 01:52:01PM 12 question? 01:52:04PM 13 A. My answer is what the answer 01:52:04PM 14 is. 01:52:06PM 15 Q. Is your answer yes, or do you 01:52:07PM 16 refuse to answer that question? Is your 01:52:10PM 17 answer yes? 01:52:12PM 18 MR. PAYERLE: Objection to 01:52:13PM 19 form. 01:52:14PM 20 A. I don't even remember what the 01:52:14PM 21 question is anymore. 01:52:15PM 22 Q. That's because your answer went 01:52:16PM 23 on in a rambling manner totally 01:52:18PM 24 unresponsive to what I asked you. 01:52:21PM 25 MR. PAYERLE: I had an 01:52:23PM</p>
<p style="text-align: right;">151</p> <p>1 LIEBERMAN 2 Q. You can't understand my 01:50:37PM 3 question? 01:50:38PM 4 A. No. 01:50:39PM 5 Q. I will go on to the next 01:50:39PM 6 question. 01:50:41PM 7 A. Okay. 01:50:41PM 8 Q. Do you think there is any 01:50:41PM 9 relationship between -- do you think that 01:50:45PM 10 a prospective purchaser would see a 01:50:48PM 11 relationship between this last sentence 01:50:51PM 12 that I read to you and the fact that the 01:50:54PM 13 company was reporting as revenues 80 01:50:57PM 14 percent of the contracts that were signed 01:51:03PM 15 during a particular year? 01:51:05PM 16 A. I can't put myself in the shoes 01:51:06PM 17 of a particular purchaser. That's what 01:51:10PM 18 you are asking me to do. 01:51:13PM 19 Q. No, not particular. A ready, 01:51:14PM 20 willing, able buyer with reasonable 01:51:18PM 21 knowledge of what he was negotiating to 01:51:20PM 22 buy under the definition of fair market 01:51:23PM 23 value. 01:51:25PM 24 Would that person sort of draw 01:51:25PM 25 a relationship between your sentence here 01:51:27PM</p>	<p style="text-align: right;">153</p> <p>1 LIEBERMAN 2 objection to form previously to the 01:52:24PM 3 question and another objection to the 01:52:27PM 4 commentary by Counsel. 01:52:29PM 5 Q. I will ask it again. 01:52:34PM 6 Do you think a willing 01:52:36PM 7 purchaser or a ready, willing and able 01:52:40PM 8 prospective purchaser of Premier would 01:52:45PM 9 take a look at the facts which underlie 01:52:46PM 10 the last sentence that I read to you in 01:52:53PM 11 your report and tie those facts in with 01:52:56PM 12 the 80/20 percent recognition? 01:52:59PM 13 A. A ready, willing and able 01:53:05PM 14 purchaser would look at all factors 01:53:07PM 15 associated with the financial data that he 01:53:09PM 16 is presented with and draw conclusions 01:53:11PM 17 from the relationships within that 01:53:13PM 18 financial data. 01:53:16PM 19 Q. So would the answer to my 01:53:17PM 20 question be yes? 01:53:19PM 21 A. I gave you my answer. 01:53:20PM 22 Q. I'm asking you another 01:53:22PM 23 question. Would the answer to my question 01:53:24PM 24 be yes? 01:53:26PM 25 MR. PAYERLE: Objection, form. 01:53:28PM</p>

<p style="text-align: right;">158</p> <p>1 LIEBERMAN 2 restatement that was made; is that 02:01:20PM 3 correct? 02:01:22PM 4 A. Well, apparently there is two 02:01:24PM 5 note 14's, and I read the first note 14 02:01:26PM 6 that appears on the page. You must be 02:01:29PM 7 referring to the second note 14. 02:01:32PM 8 Q. Correct, I am. 02:01:34PM 9 A. I did not read the second note 02:01:35PM 10 14 as of yet. 02:01:38PM 11 Q. Why don't you read it. 02:01:39PM 12 A. I will. 02:01:40PM 13 (Witness perusing document.) 02:01:44PM 14 MR. PAYERLE: To be clear, we 02:01:44PM 15 are now referring to the note 14 captioned 02:01:45PM 16 "Restatement"? 02:01:47PM 17 MR. EPSTEIN: Yes. 02:01:53PM 18 Q. Have you read that now? 02:02:22PM 19 A. Yes, I have. 02:02:23PM 20 Q. I go back, again, to your 02:02:24PM 21 statement in your text of your report at 02:02:26PM 22 page 11, "an unexplained and unaccounted 02:02:29PM 23 for difference in retained earnings." 02:02:33PM 24 Do you think that this note 14 02:02:36PM 25 does not explain the difference? 02:02:39PM</p>	<p style="text-align: right;">160</p> <p>1 LIEBERMAN 2 conform to, it does not conform to APB 20, 02:03:47PM 3 which is a part, at this time, of 02:03:51PM 4 generally accepted accounting principles. 02:03:54PM 5 It has since changed. 02:03:56PM 6 Q. So when you read this, you were 02:03:57PM 7 confused, you didn't know what this meant? 02:03:59PM 8 You as an accountant, CPA, didn't know 02:04:01PM 9 what this meant? 02:04:04PM 10 MR. PAYERLE: Objection to 02:04:05PM 11 form. 02:04:07PM 12 A. I read this and couldn't track 02:04:07PM 13 the change to identify in particular what 02:04:09PM 14 years it affected and how I would 02:04:15PM 15 implement this change into my analysis. 02:04:19PM 16 Moreover, since I was doing a 02:04:21PM 17 cash flow analysis, this change became I 02:04:24PM 18 wouldn't say irrelevant, but less 02:04:28PM 19 important, because my cash flows were not 02:04:31PM 20 dependent upon this change. My cash flows 02:04:33PM 21 were dependent upon what cash came in. 02:04:37PM 22 Q. I don't see the statement in 02:04:39PM 23 here, "an unexplained and unaccounted and 02:04:40PM 24 irrelevant difference." You just say "an 02:04:43PM 25 unexplained and unaccounted for 02:04:46PM</p>
<p style="text-align: right;">159</p> <p>1 LIEBERMAN 2 A. I think this note 14 does not 02:02:42PM 3 properly explain the difference. 02:02:45PM 4 Q. Is the word "properly" in your 02:02:47PM 5 report? 02:02:52PM 6 A. No. 02:02:53PM 7 Q. It says an "unexplained and 02:02:53PM 8 unaccounted for"? 02:02:56PM 9 A. The inference is not properly 02:02:57PM 10 explained or accounted for. 02:03:01PM 11 Q. So you draw inferences from 02:03:02PM 12 your own writing, is that what you are 02:03:03PM 13 telling me? Let's move on. 02:03:05PM 14 This does explain why the 02:03:08PM 15 restatement was made, correct? 02:03:12PM 16 A. According to APB 20, this does 02:03:16PM 17 not explain the accounting change that is 02:03:20PM 18 improperly accounted for in these 02:03:27PM 19 financial statements. 02:03:28PM 20 Q. So this is not an explanation? 02:03:29PM 21 A. It is not a correct 02:03:33PM 22 explanation, no. It does not cover the 02:03:34PM 23 criteria that APB 20, to be in generally 02:03:37PM 24 accepted accounting principles, which 02:03:44PM 25 oddly they say they are doing it to 02:03:46PM</p>	<p style="text-align: right;">161</p> <p>1 LIEBERMAN 2 difference." 02:04:48PM 3 Are you telling me that you 02:04:49PM 4 didn't understand when you read this 02:04:51PM 5 second note 14, the bottom note, the one 02:04:54PM 6 that says "Restatement," you didn't 02:04:56PM 7 understand what the accountant who 02:04:58PM 8 prepared this was communicating to you? 02:05:00PM 9 Are you saying that to me? 02:05:02PM 10 A. I'm saying that his explanation 02:05:04PM 11 did not lead me down the path to be able 02:05:08PM 12 to implement that change in the annual 02:05:10PM 13 financial statements that were presented 02:05:14PM 14 to me. 02:05:15PM 15 Q. So you weren't able to do it. 02:05:17PM 16 Did you see that Mr. Waddington 02:05:19PM 17 did it? 02:05:21PM 18 A. I saw that Mr. Waddington did 02:05:22PM 19 it, based on, he says, on the work papers 02:05:25PM 20 that were provided to him of the prior 02:05:27PM 21 accountant. 02:05:30PM 22 Q. Did you ask to see the work 02:05:30PM 23 papers of -- when you looked at this and 02:05:32PM 24 felt confused and didn't know the basis, 02:05:34PM 25 did you make any inquiry for any 02:05:38PM</p>

162

1 LIEBERMAN
 2 additional information? 02:05:39PM
 3 A. I made an inquiry for 02:05:40PM
 4 additional information. 02:05:42PM
 5 Q. You did? 02:05:42PM
 6 A. Yes, I did. 02:05:43PM
 7 Q. Who did you make it of? 02:05:43PM
 8 A. Lois Goodman. 02:05:45PM
 9 Q. Did she tell you that in fact 02:05:46PM
 10 these Halterman documents had all been 02:05:48PM
 11 produced and that the work papers were 02:05:52PM
 12 available? 02:05:54PM
 13 A. I'm not aware of that. 02:05:54PM
 14 Q. Well, what did she tell you? 02:05:56PM
 15 A. My recollection is that we were 02:05:58PM
 16 not -- we didn't have access to those 02:06:00PM
 17 documents. Or if we did have access, they 02:06:04PM
 18 weren't findable. I asked for the 02:06:07PM
 19 accountant's work papers and was told I 02:06:09PM
 20 was not getting the accountant's work 02:06:11PM
 21 papers. That was the first thing we asked 02:06:14PM
 22 for. 02:06:17PM
 23 Q. You would have liked to have 02:06:18PM
 24 seen those? 02:06:20PM
 25 A. Yes, I would have. 02:06:21PM

164

1 LIEBERMAN
 2 that you wanted to look at?" 02:07:39PM
 3 A. I did not get a call that the 02:07:42PM
 4 work papers were available. 02:07:44PM
 5 Q. Even though you didn't 02:07:59PM
 6 understand this adjustment, for purposes 02:08:00PM
 7 of your calculations for subsequent years, 02:08:03PM
 8 you did incorporate the change that was 02:08:06PM
 9 made; isn't that correct? 02:08:10PM
 10 A. I incorporated the change that 02:08:16PM
 11 was made in my cash flow analysis. 02:08:18PM
 12 Q. What caused you to accept that 02:08:23PM
 13 change if you felt that you had not been 02:08:27PM
 14 provided sufficient information to 02:08:30PM
 15 determine why the change was made? 02:08:33PM
 16 A. It had nothing to do with 02:08:35PM
 17 accepting the change. I had to account 02:08:37PM
 18 for the change because the financial 02:08:38PM
 19 statements changed. 02:08:41PM
 20 So when I went from one period 02:08:42PM
 21 to another, there was a different 02:08:43PM
 22 financial statement, so I had to account 02:08:46PM
 23 for this change, and I accounted for it by 02:08:47PM
 24 eliminating it to get to my cash flow 02:08:51PM
 25 number. 02:08:53PM

163

1 LIEBERMAN
 2 Q. I don't mean to represent that 02:06:28PM
 3 Halterman was deposed -- I don't know the 02:06:30PM
 4 day that he was deposed and I don't know 02:06:32PM
 5 how it fits in with the May 7th date. But 02:06:35PM
 6 when did you start working on this? You 02:06:40PM
 7 said February was the first contact. 02:06:43PM
 8 A. I think it was February. It 02:06:46PM
 9 could have been March. I'm not sure. 02:06:55PM
 10 Q. But, at any rate, at some point 02:06:56PM
 11 you said to Ms. Goodman "I would really 02:06:59PM
 12 like to see the work papers"? 02:07:02PM
 13 A. I did make that request. 02:07:03PM
 14 Q. And she responded to you they 02:07:05PM
 15 are not available, correct? 02:07:07PM
 16 A. She did not produce them. I 02:07:10PM
 17 don't remember her exact response. 02:07:12PM
 18 Q. I will represent to you that at 02:07:20PM
 19 some point they were produced, in other 02:07:22PM
 20 words, they were made available to all 02:07:25PM
 21 counsel, all counsel had them. I will 02:07:28PM
 22 make that representation. 02:07:30PM
 23 At no time did you ever get a 02:07:32PM
 24 call from Ms. Goodman or anyone else at 02:07:34PM
 25 McElroy, "Hey, we have those work papers 02:07:37PM

165

1 LIEBERMAN
 2 Q. I understand that. 02:08:53PM
 3 Had you been given the work 02:08:55PM
 4 papers that you had requested and which 02:08:57PM
 5 apparently Mr. Waddington was given, would 02:09:00PM
 6 you have gone back the same way that 02:09:03PM
 7 Mr. Waddington did and recalculate the 02:09:08PM
 8 revenues and the profits for each of the 02:09:12PM
 9 preceding years? By "preceding," I mean 02:09:14PM
 10 preceding this restatement. 02:09:17PM
 11 MR. PAYERLE: Objection to 02:09:19PM
 12 form. 02:09:20PM
 13 A. It would not have changed my 02:09:20PM
 14 cash flow analysis. 02:09:22PM
 15 Q. So you would not have done what 02:09:24PM
 16 I just said? You would not have gone back 02:09:25PM
 17 and recalculated income -- excuse me, 02:09:29PM
 18 revenues and profits for the preceding 02:09:34PM
 19 years? 02:09:37PM
 20 MR. PAYERLE: Same objection. 02:09:37PM
 21 A. I would not have changed my 02:09:39PM
 22 cash flow analysis. It would have changed 02:09:41PM
 23 my narrative to some degree obviously 02:09:44PM
 24 because I would have different amounts in 02:09:47PM
 25 my comparison to the RMA data. 02:09:50PM

238

1 LIEBERMAN
 2 experience is. Why don't you tell me what 03:40:12PM
 3 that is. 03:40:14PM
 4 A. As a business valuator, I 03:40:15PM
 5 valued a language school in Manhattan. 03:40:17PM
 6 Well, it is Manhattan, Queens, Vancouver, 03:40:21PM
 7 Miami, and New Jersey. I did a valuation 03:40:27PM
 8 of the school. 03:40:31PM
 9 Q. For what purpose was that 03:40:33PM
 10 valuation? 03:40:36PM
 11 A. Strategic planning. 03:40:36PM
 12 Q. Tell me what that means. 03:40:39PM
 13 A. Planning the future of the 03:40:42PM
 14 company, to make decisions based on what 03:40:47PM
 15 the value is today, or identify value 03:40:50PM
 16 drivers in the company and make an effort 03:40:53PM
 17 to improve value through utilizing 03:40:57PM
 18 techniques to increase the value drivers 03:41:02PM
 19 so that the company is worth more tomorrow 03:41:05PM
 20 than it is today. 03:41:07PM
 21 Q. Am I correct, then, that to the 03:41:09PM
 22 extent the company had components, you put 03:41:11PM
 23 a fair market value on each of the 03:41:14PM
 24 components; is that what you did? 03:41:16PM
 25 A. I put a fair market value on 03:41:18PM

240

1 LIEBERMAN
 2 part of the strategic planning process. 03:42:26PM
 3 So to bring in outside investors, a value 03:42:29PM
 4 for the company overall needed to be 03:42:34PM
 5 established to attract investors. 03:42:38PM
 6 Q. Were you successful in 03:42:43PM
 7 attracting investors? 03:42:45PM
 8 A. The plan was actually 03:42:46PM
 9 abandoned. 03:42:49PM
 10 Q. Did you do a report? 03:42:49PM
 11 A. Yes, I did. 03:42:51PM
 12 Q. Was it abandoned because you 03:42:54PM
 13 put a higher value on it than what the 03:42:57PM
 14 owners of the company thought the company 03:42:59PM
 15 was worth? 03:43:00PM
 16 A. No, it was abandoned because 03:43:02PM
 17 the owner was too egotistical to allow 03:43:04PM
 18 anybody to come in and work even on a 03:43:08PM
 19 minority basis in his company. 03:43:11PM
 20 Q. So you did that valuation and 03:43:30PM
 21 that was in a language school setting, all 03:43:34PM
 22 within the metropolitan New York area? 03:43:38PM
 23 A. National. 03:43:41PM
 24 Q. Oh, national. And when was 03:43:44PM
 25 that done? 03:43:47PM

239

1 LIEBERMAN
 2 the company as a whole. 03:41:20PM
 3 Q. But in doing that, I understood 03:41:22PM
 4 you to say that you put values on the 03:41:26PM
 5 components to see what was profitable and 03:41:28PM
 6 not; or am I misreading what you said? 03:41:31PM
 7 A. I believe you are misreading 03:41:34PM
 8 that, because I didn't say anything of the 03:41:36PM
 9 kind. 03:41:38PM
 10 Q. You just went in and gave an 03:41:38PM
 11 overall value of the company for strategic 03:41:41PM
 12 planning? 03:41:44PM
 13 A. I gave a value of the company 03:41:44PM
 14 for strategic planning, yes. 03:41:47PM
 15 Q. What was the standard you used, 03:41:49PM
 16 a willing buyer and willing purchaser? 03:41:52PM
 17 A. I used fair market value, yes. 03:41:53PM
 18 Q. Was there any buyer involved or 03:42:05PM
 19 was this just internal? In other words, 03:42:08PM
 20 was it for the purpose of determining 03:42:10PM
 21 whether an offer for the company was fair 03:42:13PM
 22 and reasonable or anything like that? 03:42:16PM
 23 A. One of the strategic plans, 03:42:18PM
 24 which is the purpose of the valuation, was 03:42:21PM
 25 to bring in outside investors. That was 03:42:23PM

241

1 LIEBERMAN
 2 A. 2000. 03:43:48PM
 3 Q. Do you have a copy of that 03:43:49PM
 4 report in your files? 03:43:51PM
 5 A. Yes, I do. I have a 03:43:51PM
 6 non-letterhead copy. It is just a Word 03:43:57PM
 7 file. Because I was with a different firm 03:44:00PM
 8 at the time. 03:44:03PM
 9 Q. In that situation, did you make 03:44:05PM
 10 projections of revenues? 03:44:08PM
 11 A. Yes, we did. 03:44:10PM
 12 Q. You didn't use actual, you made 03:44:10PM
 13 projections? 03:44:13PM
 14 A. We did projections based on 03:44:13PM
 15 management's best estimate of the future 03:44:18PM
 16 of the company. 03:44:21PM
 17 Q. What kind of projections did 03:44:27PM
 18 they give you? Did they give you a pretty 03:44:29PM
 19 comprehensive set of directions, 03:44:32PM
 20 documents, in which they really set forth 03:44:36PM
 21 the analytical process by which they made 03:44:38PM
 22 these projections? Or was it just an 03:44:41PM
 23 oral, "We expect to bring in \$24 million 03:44:46PM
 24 next year"? Do you recall? 03:44:49PM
 25 MR. PAYERLE: Objection to 03:44:52PM

318

1 LIEBERMAN
 2 Q. But you are not going to go 05:30:24PM
 3 into court and say the value of Premier on 05:30:26PM
 4 March 31, 2002 was \$77,550,000, or are 05:30:30PM
 5 you? 05:30:36PM
 6 A. Were Gary Camp to go in and say 05:30:39PM
 7 what's the value of your company, he 05:30:41PM
 8 theoretically would say it is worth \$77 05:30:44PM
 9 million on March of '02 and \$172 million 05:30:46PM
 10 on December of '06. 05:30:50PM
 11 I'm presenting this as a 05:30:55PM
 12 possible range of the value. But I'm 05:30:56PM
 13 conservative. Taking a conservative 05:30:58PM
 14 stance on this company, I valued it at the 05:31:00PM
 15 \$30 million and the \$59 million. 05:31:04PM
 16 Q. Again, you are not going to get 05:31:09PM
 17 on the stand, you, not Gary Camp, not me, 05:31:12PM
 18 not your attorney, you, you are the 05:31:16PM
 19 expert, are you going to get on the stand 05:31:21PM
 20 and say Premier, on March 31, 2002, was 05:31:23PM
 21 worth \$77,550,000; are you going to say 05:31:27PM
 22 that? 05:31:32PM
 23 A. My conclusion of value is \$30 05:31:32PM
 24 million. 05:31:33PM
 25 Q. So you will not say 77, 05:31:33PM

320

1 LIEBERMAN
 2 A. Well, yes, it is a litigation 05:32:45PM
 3 in association with a potential fraudulent 05:32:51PM
 4 conveyance, I believe. But that's not my 05:32:54PM
 5 expert opinion. That's just what I 05:32:56PM
 6 believe. I was told it was for a 05:32:58PM
 7 litigation. 05:32:59PM
 8 Q. Did you ask Mr. Waters, who you 05:33:00PM
 9 believed was the trustee, as to why he 05:33:02PM
 10 wanted this information? 05:33:04PM
 11 MR. PAYERLE: Objection, form. 05:33:05PM
 12 A. Yes, and he said it is a 05:33:10PM
 13 litigation associated with a bankruptcy. 05:33:13PM
 14 Q. Did you ask him specifically 05:33:14PM
 15 why he wanted it? 05:33:16PM
 16 A. Yes. He said for a litigation 05:33:19PM
 17 associated with a bankruptcy. 05:33:21PM
 18 Q. No other details? 05:33:22PM
 19 A. Again, because of a possible 05:33:25PM
 20 fraudulent conveyance was my impression. 05:33:28PM
 21 I can't say that I recall him saying that. 05:33:30PM
 22 Q. Fraudulent conveyance of what? 05:33:32PM
 23 A. I'm speaking without knowledge. 05:33:35PM
 24 My impression. 05:33:41PM
 25 Q. Fraudulent conveyance of 05:33:41PM

319

1 LIEBERMAN
 2 correct? 05:31:35PM
 3 A. 77 is a different number than 05:31:36PM
 4 30. 05:31:39PM
 5 Q. So you will not say it? 05:31:39PM
 6 A. I will not say that as my 05:31:41PM
 7 conclusion of value. 05:31:43PM
 8 Q. You will also not say that your 05:31:44PM
 9 conclusion of value on December 31, 2006 05:31:46PM
 10 is \$172,290,000, will you? 05:31:49PM
 11 A. My conclusion of value on 05:31:54PM
 12 December 31, 2006 is \$59,795,000. 05:31:56PM
 13 Q. Let me ask you, were you told 05:32:04PM
 14 why you were being asked to value Premier 05:32:07PM
 15 as an entity? 05:32:12PM
 16 A. In a litigation associated with 05:32:21PM
 17 a bankruptcy. 05:32:23PM
 18 Q. Is that all you were told? 05:32:25PM
 19 A. Yes. 05:32:27PM
 20 Q. Generally when you are asked to 05:32:28PM
 21 do an appraisal, do you ask a question 05:32:30PM
 22 such as "For what purpose?" 05:32:32PM
 23 A. Yes. 05:32:35PM
 24 Q. If you are told it is for a 05:32:37PM
 25 litigation, that's sufficient? 05:32:39PM

321

1 LIEBERMAN
 2 Premier Education Group LP, was that your 05:33:43PM
 3 understanding? 05:33:51PM
 4 A. Actually, it is of a general 05:33:51PM
 5 partnership, GP of Premier Education 05:33:56PM
 6 Group, Inc. 05:34:01PM
 7 Q. That you were told was 05:34:02PM
 8 fraudulently transferred, the general 05:34:06PM
 9 partnership interest? 05:34:08PM
 10 A. I wasn't told it was 05:34:08PM
 11 fraudulently transferred. I figured that 05:34:12PM
 12 out all by myself. 05:34:19PM
 13 Q. From what? 05:34:21PM
 14 A. I don't recall. 05:34:23PM
 15 Q. Did you ever ask Mr. Waters or 05:34:26PM
 16 any of the attorneys at McElroy, or the 05:34:28PM
 17 Trustee for that matter, "Why am I not 05:34:34PM
 18 being asked to value the property that was 05:34:36PM
 19 actually transferred, the general 05:34:38PM
 20 partnership interest?" 05:34:41PM
 21 A. Actually, I did. I was told 05:34:41PM
 22 that "We don't know what the percentage 05:34:43PM
 23 interest of the general partner was. We 05:34:46PM
 24 have conflicting documents that have 05:34:49PM
 25 different percentages." And, in fact, 05:34:51PM

<p style="text-align: right;">322</p> <p>1 LIEBERMAN 2 those were presented to me. 05:34:54PM 3 Q. Tell me what was presented to 05:34:57PM 4 you which had conflicting information, 05:35:02PM 5 because I don't think they are listed 05:35:03PM 6 either. 05:35:05PM 7 A. I didn't use it in my report. 05:35:05PM 8 Q. So you were aware at the time 05:35:07PM 9 of your report that what was transferred 05:35:08PM 10 was a general partnership interest, and 05:35:12PM 11 you were told the reason why you weren't 05:35:14PM 12 valuing the general partnership interest 05:35:16PM 13 is because there was conflicting 05:35:17PM 14 information as to what interest the 05:35:23PM 15 general partner had in the limited 05:35:24PM 16 partnership; is that correct? 05:35:26PM 17 A. I was asked to do a 100 percent 05:35:27PM 18 interest in the limited partnership, and 05:35:30PM 19 that's what I did. 05:35:34PM 20 Q. But you were told the reason 05:35:37PM 21 why you shouldn't do an appraisal of the 05:35:39PM 22 general partnership interest is because 05:35:42PM 23 there was -- isn't that what you testified 05:35:44PM 24 to? 05:35:47PM 25 A. Yes, it was unknown as to what 05:35:48PM</p>	<p style="text-align: right;">324</p> <p>1 LIEBERMAN 2 preparing a report. 05:36:28PM 3 A. Every document I reviewed and 05:36:30PM 4 relied upon is in this report or I have 05:36:32PM 5 disclosed to you today. There may be 05:36:35PM 6 other documents that I looked at that I 05:36:37PM 7 did not use or rely upon in this report, 05:36:39PM 8 such as -- 05:36:42PM 9 Q. You see, you changed "reviewed" 05:36:43PM 10 to "used." Sometimes a document will be 05:36:45PM 11 contrary to your position and you look at 05:36:48PM 12 it. You don't use it. But you are 05:36:51PM 13 obligated to disclose it. 05:36:54PM 14 Do you understand that as an 05:36:55PM 15 expert, that you are obligated to disclose 05:36:56PM 16 that? 05:36:58PM 17 MR. PAYERLE: Objection, form. 05:36:58PM 18 Q. Or you don't understand that? 05:37:00PM 19 MR. PAYERLE: Objection to 05:37:02PM 20 form. 05:37:02PM 21 Q. You don't know the answer to 05:37:02PM 22 that? 05:37:04PM 23 A. Every document that I used or 05:37:04PM 24 reviewed has been disclosed in this report 05:37:06PM 25 or to you. 05:37:09PM</p>
<p style="text-align: right;">323</p> <p>1 LIEBERMAN 2 the general partnership interest was. 05:35:49PM 3 Q. And you were given documents to 05:35:51PM 4 show what was this conflict? 05:35:53PM 5 MR. PAYERLE: Objection. 05:35:55PM 6 A. Yes. 05:35:56PM 7 Q. And what were those documents? 05:35:56PM 8 A. I don't recall. 05:35:57PM 9 Q. Do you still have those 05:35:58PM 10 documents? 05:35:59PM 11 A. Yes, I do. 05:35:59PM 12 MR. EPSTEIN: I call for the 05:36:02PM 13 production of those documents also. 05:36:03PM 14 MR. PAYERLE: We will consider 05:36:06PM 15 it. 05:36:07PM 16 Q. Anything else you looked at 05:36:07PM 17 that you haven't -- at the time you 05:36:08PM 18 prepared this report that you haven't 05:36:12PM 19 disclosed to me today? 05:36:14PM 20 A. It is very possible. I looked 05:36:16PM 21 at a lot of things. 05:36:19PM 22 Q. You see, you don't understand. 05:36:20PM 23 It is not supposed to be very possible. 05:36:22PM 24 You are supposed to tell me every document. 05:36:24PM 25 that you reviewed or relied upon in 05:36:26PM</p>	<p style="text-align: right;">325</p> <p>1 LIEBERMAN 2 Q. That's all I wanted to hear. 05:37:12PM 3 So there are no other documents? 05:37:14PM 4 A. No. 05:37:16PM 5 Q. You gave testimony in two 05:37:24PM 6 cases, correct? 05:37:26PM 7 A. Within the last three years. 05:37:27PM 8 Q. Tell me what testimony you gave 05:37:30PM 9 in the two cases. And that will be my 05:37:31PM 10 swan song for today. 05:37:36PM 11 A. I have to refresh myself as to 05:37:37PM 12 what those two cases were. 05:37:40PM 13 Q. Tell me the testimony that you 05:38:39PM 14 gave. 05:38:41PM 15 A. Well, in Andre Assous versus 05:38:42PM 16 Ellen Zoldessy, I did a calculation and a 05:38:46PM 17 valuation of a contract between Andre 05:38:54PM 18 Assous, Inc. and the Andy Warhol 05:39:00PM 19 Foundation. 05:39:07PM 20 Q. Was that a breach of contract 05:39:07PM 21 case? 05:39:08PM 22 A. It was a case where Ellen 05:39:09PM 23 Zoldessy purportedly ruined the deal, so 05:39:12PM 24 to speak, for Andre Assous and the Andy 05:39:17PM 25 Warhol Foundation and tried to establish 05:39:22PM</p>